

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	Docket No. CAA-5-99-023
)	
Acme Hard Chrome, Inc.)	Proceeding to Assess an
Alliance, Ohio,)	Administrative Penalty
)	under Section 113(d) of the
)	Clean Air Act,
Respondent.)	42 U.S.C. § 7413(d)
_____)	

TO: 4P 28 9343
REC

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On August 4, 1999, EPA filed the Complaint in this action against Respondent Acme Hard Chrome, Inc. (Acme). The Complaint alleged three violations. First, the complaint alleged that Acme violated the National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks 40 C.F.R. Part 63, Subpart N (Chrome Plating NESHAP), at its facility in Alliance, Ohio in that it failed to timely perform an initial performance test on several of Acme's affected sources as required by 40 C.F.R. §§ 63.343(b)(1) and 63.7(a)(2), and of Section 112 of the Clean Air Act (CAA). Second, the Complaint alleged that Acme violated the

Chrome NESHAP by exceeding the emission standard limit for chromium as required under 40 C.F.R. 63.342(c)(1)(i) and of Section 112 of the CAA. Third, the Complaint alleged that Acme failed to secure the proper Permits to Install (PTI) prior to installation as required under Ohio Administrative Code 3745-31-02(a).

3. Acme filed an Answer in which it denied the violations alleged in the Complaint, objected to the proposed civil penalty and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Acme admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint.

5. Acme waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

6. Acme states that, to the best of its knowledge, it is in compliance with its Ohio permits and the Chrome Plating NESHAP.

7. The parties consent to the terms of this Consent Agreement and Final Order (CAFO).

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

9. In consideration of Acme's good faith, compliance history, other equitable considerations, and to resolve this dispute between the parties, EPA agrees to settle the proposed penalty of \$47,600 for \$30,000, which shall be paid in two installments.

10. Acme must pay \$15,000 in civil penalties by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO. Additionally, Acme shall pay a second installment of \$15,750 on or before the one year anniversary of the due date of the first payment required under this CAFO. The second installment includes the principal amount of \$15,000 and an additional \$750 in interest charges, calculated at 5% annual rate of interest, that will be paid by Acme as a result of deferring the second installment more than thirty days beyond the effective date of the CAFO.

11. Acme must send each check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany each payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the checks and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Jeffrey Clay, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

13. This civil penalty is not deductible for federal tax purposes.

14. If Acme does not pay timely the civil penalty pursuant to the payment schedule contained in this Agreement, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The

validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). Acme must pay a \$15 handling charge each month that any portion of penalty is more than 30 days past due. Acme must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. Payments made according to the schedule described in Paragraph 10 of this CAFO will not be considered late or overdue for nonpayment penalty purposes.

General Provisions

16. This CAFO settles EPA's claims for civil penalties for the violations alleged in the Complaint.

17. Nothing in this CAFO restricts EPA's authority to seek Acme's compliance with the Act and other applicable laws and regulations.

18. This CAFO does not affect Acme's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

19. The terms of this CAFO bind Acme, and its successors, and assigns.

20. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

21. Each party agrees to bear its own costs and fees in this action.

22. This CAFO constitutes the entire agreement between the parties.

**U.S. Environmental Protection Agency
Complainant**

Date: 9-21-00

By: 

Bharat Mathur, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

**Acme Hard Chrome, Inc.
Respondent**

Date: 09/13/00

By: 

Richard W. Burton, Jr., President
Acme Hard Chrome, Inc.

CONSENT AGREEMENT AND FINAL ORDER

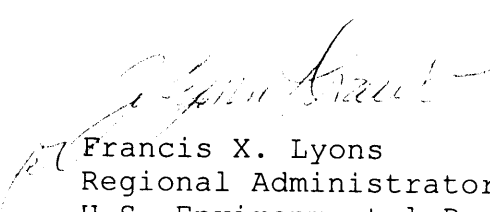
Acme Hard Chrome, Inc.

Docket No. CAA-5-99-023

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: 9/26/00


Francis X. Lyons
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-5-99-023 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by certified mail, return receipt requested to:

Richard Burton, President
Acme Hard Chrome, Inc.
555 Freedom Avenue
P.O. Box 2388
Alliance, Ohio 44601

I also certify that a copy of the CAFO was sent by first class mail to:


Nancy Miller, Esq.
Samuels and Northrop Co., LPA
180 East Broad Street, Suite 816
Columbus, Ohio 43215

Daniel Aleman, Acting Administrator
Air Pollution Control Division
Canton City Health Department - City Hall
420 Market Ave. North
Canton, Ohio 44702-1544

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
122 South Front Street
Columbus, Ohio 43215

on the 28th day of September, 2000.

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Certified Mail Number


Loretta Shaffer, Secretary
ARD/AECAB/AECAS (MN/OH)

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